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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,286	01/16/2004	Fumihiko Mochizuki	Q79436	5152

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EXAMINER

DOLAN, JENNIFER M

ART UNIT	PAPER NUMBER
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2813

DATE MAILED: 07/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/758,286

Applicant(s)

MOCHIZUKI, FUMIHIKO

Examiner

Jennifer M. Dolan

Art Unit

2813

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-10 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 4 is/are rejected.
- 7) ☒ Claim(s) 7-10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This action is in response to the Amendment of 8 May 2006

Status of Claims

1. Claims 1 and 3-10 are currently pending. Claims 5 and 6 were withdrawn from consideration without traverse in the Election filed on 9/13/05

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Publication No. 2002/0053720 to Boursat et al.

Boursat discloses a film comprising: a multilayer film having a plurality of stacked films formed of SiNx (see paragraphs 0025-0027), where the films are formed by CVD (paragraph 0025), where refractive indices of adjacent films are different from each other (compressive SiNx and tensile SiNx inherently have different dielectric constants due to the different stoichiometric ratios), and wherein stresses of prescribed ones of the plurality of films have opposite signs with respect to adjacent films (paragraphs 0026-0027).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boursat et al.

Boursat teaches that the stresses in the multilayer films are designed to compensate for the stresses in the adjacent films, such that a thick film with minimal stresses can be generated (see paragraph 0026). Boursat does not teach the specific magnitudes of the adjacent films.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to select equal and opposite stress magnitudes for adjacent films in Boursat. The rationale is as follows: A person having ordinary skill in the art would have been motivated to use films of equal stress magnitude, since lamination of films with equal and opposite stress magnitudes facilitates exact stress compensation, such that the total stress of the multilayer structure is minimized. Although Boursat is silent as to the stress magnitudes and layer thicknesses, it has been held that “where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.” *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (1955).

Allowable Subject Matter

6. Claims 7-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter:

The primary reason for allowability is the use of the silicon nitride multilayer stack with opposite stresses for adjacent layers as a reflective film in a spatial light modulator structure. The prior art does teach multilayer SiN films wherein stresses of adjacent films have opposite signs (see US2002/0053720 to Boursat et al. or US 6,429,151 to Moore et al.). The alternating stress in these films, however, is purely used for stress compensation. There is no suggestion of using these prior art films as reflective films or in structures such as spatial light modulators, and these prior art films would not be capable of functioning as reflective films, since the layers do not have the required quarter wavelength thickness.

The closest prior art pertaining to multilayer dielectric films for use as reflective films for spatial light modulators typically use polysilicon/SiN multilayer films (see US 6,590,710 to Hara et al.) or SiO/TiO multilayer films (US 2004/0012835). There is no motivation or suggestion in the prior art of using alternating stress SiN multilayer films in place of the prior art polysilicon/SiN films or the SiO/TiO films. Hence, it is the Examiner's opinion that the spatial light modulator as claimed would not have been obvious to a person having ordinary skill in the art.

Response to Arguments

8. Applicant's arguments with respect to claims 1, 3, 4, and 7-10 have been considered but are moot in view of the new grounds of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer M. Dolan whose telephone number is (571) 272-1690. The examiner can normally be reached on Monday-Friday 8:30am-5:00pm.

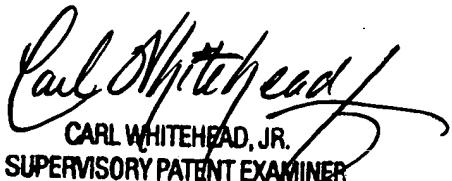
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl W. Whitehead, Jr. can be reached on (571) 272-1702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2813

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jennifer M. Dolan
Examiner
Art Unit 2813

jmd


CARL WHITEHEAD, JR.
SUPERVISORY PATENT EXAMINER
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